IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WP(C).No. 27984 of 2007(F)

PETITIONER:

M.C.USHA KUMARI, USHA MANDIRAM,
PULAMAN, KOTTARAKARA.

BY ADV. SRI.B.S.SWATHY KUMAR

RESPONDENTS:

1. **REVENUE DIVISIONAL OFFICER,**
   KOLLAM.

2. **THE MYLOM GRAMA PANCHAYAT,**
   REPRESENTED BY ITS SECRETARY,KOTTARAKKARA,
   KOLLAM.

3. **PRABHAKARAN PILLAI,S/O.RAGHAVAN PILLAI,**
   RESIDING AT KERALA VILAS, PULAMAN PO,
   KOTTARAKARA.

4. **SARASWATHI AMMA,W/O. PRABHAKARAN PILLAI,**
   ....DO....DO.....

5. **DEPUTY DIRECTOR OF PANCHAYATS,**
   KOLLAM.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN
SRI.N.UNNIKRISHNAN
BY GOVERNMENT PLEADER SRI. C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.27984/2007 F

APPENDIX

PETITIONER'S EXHIBITS;

EXT.P1: **COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DTD. 17/01/2003.**

EXT.P2: **COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DTD. 12/07/2004.**

EXT.P3: **COPY OF THE LETTER NO.C3-1109/2004 DTD. 20/08/2004 FROM THE 5TH RESPONDENT.**

EXT.P4: **COPY OF THE LETTER NO.A 8458/03(2) DTD. 14/01/2004.**

EXT.P5: **COPY OF THE ORDER NO.A 8458/03-K.DIS. DTD. 6/09/2007 OF THE 1ST RESPONDENT.**

/TRUE COPY/

P.S.TO JUDGE

KSS

ANTONY DOMINIC, J.

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W.P.(C) No. 27984 OF 2007 F
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Dated this the 26th September, 2007

J U D G M E N T

The prayer in this writ petition is to quash Ext. P5 and to direct respondents 1 and 2 to initiate action against respondents 3 and 4 in implementation of Exts. P3 and P4. It is the petitioner's contention that by Exts. P3 and P4, respondents 3 and 4 have improved the land against the provisions of the Land Utilisation Order and that action was recommended on such a finding. She has also filed an application before the R.D.O. and this writ petition has been filed essentially for the implementation of Exts. P3 and P4.

2. It is stated that the matter was posted to 11-6-2007 and then it was adjourned to 22-8-2007. On 22-8-2007 on behalf of the petitioner, a request was made by her father for an adjournment. She complains that nothing was heard thereafter and now Ext. P5 order was received rejecting her application. It is

challenging Ext. P5 that this writ petition has been filed.

3. The main contention raised by counsel for the writ petitioner is one of violation of the principles of natural justice. He also submits that Ext. P5 is bad on merits as well.

4. I heard the counsel for the writ petitioner and the Standing Counsel for the 2nd respondent and the counsel for respondents 3 and 4 also.

5. As regards the question whether the parties were heard before passing Ext. P5, counsel for the writ petitioner asserts that such an opportunity was not granted. Learned counsel for respondents 3 and 4 also submits that Ext. P5 was passed without hearing them. Therefore, it is evident that the order was issued in violation of the principles of natural justice. Since the order passed was in violation of the principles of natural justice, it is liable to be quashed. I am not entering into the merits of the controversy.

6. Hence, I dispose of this writ petition quashing Ext. P5 and directing the 1st respondent to re-consider the application filed by the petitioner with notice to

the writ petitioner and respondents 3 and 4 as expeditiously as possible, at any rate within a period of six weeks from the date of receipt of a copy of this judgment.

In the meantime status quo as on date shall be maintained by respondents 3 and 4.

ANTONY DOMINIC
JUDGE

jan/-